

NORFOLK, VIRGINIA
ACTION OF THE COUNCIL
TUESDAY, OCTOBER 9, 2012 – 7:00 P.M.

Prayer offered by Councilwoman Angelia Williams, followed by the Pledge of Allegiance.

President Fraim moved to excuse Mr. Protogyrou from today's meeting.

Motion adopted.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

President Fraim moved to dispense with the reading of the minutes of the previous meeting.

Motion adopted.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

CEREMONIAL MATTER

President Fraim read a proclamation proclaiming the week of October 7 thru 13, 2012 as **"Fire Prevention Week"** in the City of Norfolk. Julian Williamson, Battalion Chief, and Mark Salmon, Deputy Chief, accepted the proclamation.

President Fraim presented Linda Bryant, Deputy Commonwealth Attorney from the Commonwealth Attorney's Office a Resolution for the Community Recognition Program for Practices in Domestic Violence Response:

WHEREAS, domestic violence impacts thousands of Virginians each year and threatens our citizens, our families, our children, our homes and our communities; and

WHEREAS, the Norfolk City Council is committed to the safety and security of its citizens and communities impacted by domestic violence and to holding perpetrators of domestic violence accountable for their actions; and

WHEREAS, the Norfolk City Council continues to support promising programs and initiatives to address the issue of domestic violence in our community and among our citizens; and

WHEREAS, the City of Norfolk has the opportunity to apply for recognition for the domestic violence practices and initiatives of our community from the Attorney General's Community Recognition Program for Promising Practices in Domestic Violence Response; and

WHEREAS, an application for recognition by the Attorney General's Community Recognition Program requires a resolution of support from the local governing body;

NOW, THEREFORE, BE IT RESOLVED:

Section 1: - That the City of Norfolk wishes to apply for recognition by the Attorney General's Community Recognition Program for Promising Practices in Domestic Violence Response and fully supports all reasonable efforts to meet the application requirements established by the Office of the Attorney General.

Section 2: - That our community application for recognition requires the designation of a local coordinator representing an existing inter-agency domestic violence team as the contact point for the recognition process.

Section 3: That Deputy Commonwealth's Attorney Linda Bryant, who also serves as Director of the Community Collaboration Center and Coordinator of the Norfolk Domestic Violence Fatality Review Team, is hereby designated to represent our community for participation in this program.

Section 4: - That this resolution shall be in effect from and after its adoption.

ACTION: The Resolution as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

PUBLIC HEARINGS

PH-1

PUBLIC HEARING scheduled this day pursuant to action of the Council on **August 28, 2012** under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **Potter's House by Carlos Morales** to **a) amend the General Plan of Norfolk 1992**, to change the land use designation from Commercial/Office to Institutional, and **b) for a change of zoning from C-2 (Corridor Commercial) district to Conditional IN-1 (Institutional) district on property located at 6820 North Military Highway.**

ACTION: Public Hearing closed and continued to November 13, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

PH-2

PUBLIC HEARING scheduled this day pursuant to action of the Council on **August 28, 2012** under the State law, public notice having been inserted in the local press by the City Clerk, on the application of the **City Planning Commission** to amend **Section 25-10.1(c) of the Zoning Ordinance of the City of Norfolk, 1992** to permit consideration of **longer operating hours for Eating and Drinking and Entertainment Establishments that abut a residential use in a residential zoning district.**

Thereupon, "An Ordinance to amend and reordain **Section 25-10.1** of the **Zoning Ordinance of the City of Norfolk, 1992**, **SO AS TO** revise locational criteria for eating and drinking establishments and entertainment establishments located near one-family residential uses when such establishments do not utilize an outside service area," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

PH-3

PUBLIC HEARING scheduled this day pursuant to action of the Council on **August 28, 2012** under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on a Deed of Easement to Virginia Natural Gas on property located at **1184 Lance Road**.

Tom Rumbly, 544 South Independence Boulevard, Virginia Beach, was present to answer questions.

Thereupon, “An Ordinance authorizing the conveyance of a five-year easement to **Virginia Natural Gas, Inc.**, relative to a compressed natural gas fueling station located at **1184 Lance Road** in the City of Norfolk, and approving the terms of the deed of easement,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective November 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

PH-4

PUBLIC HEARING scheduled this day pursuant to action of the Council on **September 11, 2012** under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **James A. Baker** for **a)** Conditional Rezoning from I-3 (General Industrial) district to Conditional I-2 (Light Industrial) district, **b)** a Special Exception to operate an Automobile Storage Yard and **c)** a Special Exception to operate an Automobile and Truck Repair Facility on property located at **3435-3441 Mangrove Avenue**.

Thereupon, “An Ordinance to rezone property located at **3435 to 3441 Mangrove Avenue** from I-3 (General Industrial) District to Conditional I-2 (Light Industrial) District,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

PH-4A

An Ordinance entitled, “An Ordinance granting a special exception to operate an automobile storage yard on property located at **3435 to 3441 Mangrove Avenue**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

Ph-4B

An Ordinance entitled, “An Ordinance granting a special exception to permit the operation of an automobile repair facility on property located at **3435 to 3441 Mangrove Avenue**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

CONSENT AGENDA

C-1

Letter from the City Clerk transmitting an **Abstract of Votes** cast in the City of Norfolk at the Special Election on September 4, 2012, pursuant to Section 24.2-675 of the Code of Virginia.

ACTION: Received and filed.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

C-2

Letter from the City Manager recommending a public hearing be held to hear comments on the conveyance of a **GEM Lot** to **Ernesto J. and Filomena Viado** on property located at **SS Landale Road**.

ACTION: City Clerk authorized to advertise for a public hearing on October 23, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

C-3

Letter from the City Manager recommending an **INVITATION TO BID** be scheduled to solicit bids for a **Long-term Parking Agreement** for the benefit of the tenants of the Wainwright Building located at **220 West Bute Street**.

ACTION: City Clerk authorized to advertise for an Invitation to Bid on October 23, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

C-4

Letter from the City Manager recommending a public hearing be held to hear comments on a Lease Agreement, which permits the **Chesterfield Community Development Corporation** occupancy and use the ground floor of a City building located at **2715 Stanhope Avenue**.

ACTION: City Clerk authorized to advertise for a public hearing on October 23, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

REGULAR AGENDA

R-1

Letter from the City Manager and an Ordinance entitled, “An Ordinance authorizing the purchase from **Jean W. Eschucha** of certain property located in the City of Norfolk for the sum of \$81,200.00 in accordance with the terms and conditions of the attached Purchase and Sale Agreement; and authorizing the expenditure of a sum of up to \$91,200.00 from funds heretofore appropriated to pay the purchase price and the other transaction costs,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-2

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the terms and conditions of a **Lease Agreement** between the **City and Tidewater Mulch Inc., Four Seasons Nursery** for property located at **6280 Northampton Boulevard** for the sale and storage of Christmas Trees on the property from November 20 through December 27, 2012 and authorizing the City Manager to execute the Lease Agreement on behalf of the City,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-3

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving a **Lease Agreement between Bel Aire Station, LLC**, as Landlord, and the City of Norfolk, as Tenant, for lease of the Third Floor of that certain building located at **1500 East Little Creek Road** for the Norfolk Juvenile Courts Probation Services Unit,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, , Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-4

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the acceptance of a Grant Award of \$20,000.00 from **Keep America Beautiful/Lowes Community Improvement Grant**, appropriating and authorizing the expenditure of the funds for Litter Prevention and Neighborhood Improvement Projects,” was introduced in writing and read by its title.

Ellis James, 2021 Kenlake Place and Dan Montague, 4605 Krick Street, spoke in support of this matter.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-5

Letter from the City Manager and an Ordinance entitled, “An Ordinance permitting **Old Dominion University** to encroach into the rights-of-way of **43rd Street between Hampton Boulevard and Powhatan Avenue** with 4’ fencing and landscaping,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-6

Letter from the City Manager and an Ordinance entitled, “An Ordinance permitting **Old Dominion University** to encroach into the rights-of-way of **43rd Street between Hampton Boulevard and Parker Avenue** with four driver feedback signs,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-7

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting permission to **Old Dominion University** to encroach into Powhatan Avenue right-of-way with a lightguard system in a crosswalk in the **4700 Block of Powhatan Avenue**, including electrical connection to a building and motion detectors on bollards at street entry points,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-8

Letter from the City Manager and an Ordinance entitled, “An Ordinance permitting **JFS Investments** to encroach into the right-of-way at **2700 Hampton Boulevard** with an awning,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-9

Letter from the City Manager and an Ordinance entitled, “An Ordinance permitting the **Rockefeller, LLC** to encroach 3’ into the right-of-way at **252 Boush Street** with a cornice and up to 7’4” with a cornice and 4’4” with a building overhang on Tazewell Street,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-10

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving a **Right of Entry Agreement** with **Norfolk Southern Railway Company**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-11

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting from the **Virginia Department of Motor Vehicles** a **Selective Enforcement Grant Award** of \$37,200.00 for police officers’ overtime pay to assist with Selective Enforcement-Speed Initiative and for equipment purchases; a Grant Award of \$17,551.00 for police officers’ overtime pay to assist with the Selective Enforcement-Alcohol Initiative, DUI Conference Fees and equipment purchases; authorizing the expenditure of the grant funds and authorizing the expenditure of local match of \$18,600.00 and \$8,775.00, respectively, as in-kind services by the Norfolk Police Department,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-12

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting a \$212,813.00 **Grant Award from the U.S. Department of Justice FY12 Edward Byrne Memorial Justice Assistance Grant Program** and appropriating and authorizing the expenditure of the funds for overtime pay and various projects for the program,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-13

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting **\$75,497.00** from the **Commonwealth of Virginia for the Fiscal Year 2013 Comprehensive Services Act for At-Risk Youth and Families Pool Funds for Wrap-Around Services for Students with Disabilities**, appropriating and authorizing the expenditure of **\$75,497.00** from the Commonwealth of Virginia for **Fiscal Year 2013 Comprehensive Services Act for At-Risk Youth and Families Pool Funds for Wrap-Around Services for Students with Disabilities** and appropriating and authorizing the expenditure of **\$24,563.00** in local matching funds by the Norfolk Department of Human Services for the **Fiscal Year 2013 Comprehensive Services Act for At-Risk Youths and Families Pool Funds for Wrap-Around Services for Students with Disabilities**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-14

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving a **License Agreement** with **Patti Wray** and **Lucy R. White** for the use of certain space at **631 West 35th Street**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-15

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain **Section 25.1-75** of the **Norfolk City Code, 1979**, regarding rates for parking in off-street parking facilities, **SO AS TO** add a new sub-paragraph, entitled “**Top Deck**” **Pilot Parking Program**, to the **Regulations and Rules**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-16

Letter from the City Manager and an Ordinance entitled, “An Ordinance, granting an additional one-half day and one full day of holiday leave to all City employees on **December 24, 2012 and December 31, 2012**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-17

Letter from the City Manager and the following two Ordinances:

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit mixed uses on property located at **919 West 21st Street**,” was introduced in writing and read by its title.

Robyn Thomas, 913 West 21st Street, Suite C, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-17A

An Ordinance entitled, “An Ordinance granting a **Pedestrian Commercial Overlay District Development Certificate SO AS TO** permit modifications to the façade of an existing building located at **919 West 21st Street,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-18

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the City Treasurer to issue a refund to **D & R Hotels LLC, \$3,881.41**, plus interest based upon the correction of business property tax assessment for **Tax Year 2012,**” was introduced in writing and read by its title. (This refund is based on the taxpayer filing a return showing a decrease in company assets subsequent to its paying business property taxes based on its 2011 assets.)

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-19

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the City Treasurer to issue a refund to **Scott & Stringfellow LLC, \$2,716.90**, plus interest based upon the correction of business property tax assessment for **Tax Year 2012,**” was introduced in writing and read by its title. (This refund is based on the taxpayer submitting a 2012 property filing subsequent to its paying of business property taxes which showed that the assessment included assets no longer in the company’s possession.)

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

R-20

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the City Treasurer to issue a refund to **R F Procurement LLC, \$10,993.94**, plus interest based upon the correction of property tax assessment for Tax Year 2012,” was introduced in writing and read by its title. (This refund is based on the taxpayer receiving a filing extension and paying business property taxes based on 2011 assests, and then submitting its 2012 property filing which showed a decrease in company assets.)

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-21

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the City Treasurer to issue a refund to **Lake Wright Hospitality One LLC, \$3,744.66**, plus interest based upon the correction of business property tax assessment for Tax Year 2012,” was introduced in writing and read by its title. (This refund is based on the taxpayer receiving a filing extension and paying business property taxes based on 2011 assets, and then submitting its 2012 property filing which showed a decrease in company assets.)

ACTION: The Ordinance as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-22

A Resolution entitled, “A Resolution in support of the **Virginia Attorney General’s Community Recognition Program for Promising Practices in Domestic Violence Response**,” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective October 9, 2012.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-23

Letter from the Real estate Assessor requesting confirmation of the appointment of **Nancy Pope** to the position of Real Estate Appraiser II, effective September 21, 2012.

ACTION: Appointment confirmed.

Yes: Burfoot, Riddick, Smigiel, Whibley, Williams, Winn, and Frain.

No. None.

NEW BUSINESS

1. Alton Robinson, 735 West 35th Street, commented on Council roles and responsibilities; stating that when they make a decision it affects all citizens. He brought awareness to the recent homicides in the City of Norfolk.
2. Merle Rutledge, 532 Reservoir Avenue, spoke to Council about the 4th Amendment and his rights with reference to the section of the city code on littering.
3. Raymond Turner, 1619 Cogona Street, spoke regarding the new proposed Campostella Elementary School and the STEM program and asked that the school be a K-8 school.
4. Ellis W. James, 2021 Kenlake Place, commented against blending the Council elections into November elections, stating that it might be cost effective, but not a good idea.
5. Keela Boose, 1936 Springfield Avenue, spoke to Council about the new proposed Campostella Elementary School and the STEM program and asked that the school be K-8 and asked for Campostella residents present to stand in support.